



## MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

### PART I: GENERAL INFORMATION

Requestor Name and Address:  OXMED INC PO BOX 972557 DALLAS TX 75397-2557	MFDR Tracking #: M4-04-1587-01
	DWC Claim #:
	Injured Employee:
Respondent Name and Box #:  TEXAS MUTUAL INSURANCE CO Box #: 54	Date of Injury:
	Employer Name:
	Insurance Carrier #:

### PART II: REQUESTOR'S POSITION SUMMARY AND PRINCIPAL DOCUMENTATION

**Requestor's Rationale for Increased Reimbursement:** "We feel that we are due our full billed amount for the equipment provided to this patient. The carrier has incorrectly reviewed this claim and has paid this claim at a reduced rate. We have provided this carrier with examples of payments in full for the same type of billed service. These items are billed at a fair & reasonable rate according to the Commission Rules and Fee Guidelines. These claim items were submitted based on the 1991 Fee Guidelines and should have been paid accordingly. We have provided the carrier with examples of payments in full to substantiate the amount billed on the HCFA-1500 and are now requesting the remaining amount to be paid in **Full** with accrued interest."

**Principal Documentation:**

1. DWC 60 Package
2. Medical Bill(s)
3. EOB(s)
4. Total Amount Sought - \$1,501.38

### PART III: RESPONDENT'S POSITION SUMMARY AND PRINCIPAL DOCUMENTATION

**Respondent's Position Summary:** "This carrier referred to the 2002 (Exhibit 2) and 2003 (Exhibit 3) (for the respective dates of service) Medicare Region C DMEPOS Fee Schedule, for a fair and reasonable reimbursement." "The requester improperly billed and unbundled the supply. The requestor billed this carrier for a water circulating heat/cold pad with pump using HCPCS code E0236, along with an unlisted HCPCS code E1399. HCPCS code E1399 was billed twice and is reserved for miscellaneous supplies. The unbundling allows the requestor to submit separate charges for each item, though both are necessary and integral to the other, in an effort to circumvent the need for preauthorization. The water circulating unit was billed at \$494.00 while the water circulating pad was billed at \$155.00 and the 'therapy cooler wrap' was billed at \$75. In essence, the total charge for this water circulating heat/cold pad with pump is \$724.00. (Rule 134.600 requires preauthorization for DME items in excess of \$500.00) There is no evidence that the claimant already had a water circulating pump, pad, or wrap necessitating separate replacement, no evidence the requestor intended to replace a defective water circulating pad or pump. Instead, the requestor was making available the complete device for the use by the claimant." "If the requester insists these units are separate entities, not pieces of the whole device that delivers cryotherapy, it is this carrier's position that such a position further supports that the items in dispute are not necessary. These items, separate and independent of each other, are of no use and therefore unnecessary." "This carrier reimbursed the requester \$40.95 for the aluminum crutches with pads. (Exhibit 2) The 1991 Fee Schedule does not have a code for aluminum crutches with pads." "It is this carrier's position no additional reimbursement is due. This carrier reimbursed the requester the maximum allowable reimbursement for CPT code 97500 or \$24<sup>3</sup>. The requester improperly billed 3 units for code 97500 (Exhibit 5) rather than billing code 97501. It is this carrier's position any other units of time billed with code 97500 are global to the one 97500 code that may be billed otherwise another code should have been billed."

**Principal Documentation:**

1. DWC 60 Package

**PART IV: SUMMARY OF FINDINGS**

Date(s) of Service	Denial Code(s)	Disputed Service	Amount in Dispute	Amount Due
10/7/2002	M, 40, D, 60	E0781	\$10.00	\$0.00
	F, JM, D, 60	E0236	\$494.00	\$490.20
	F, JM, D, 60	E1399	\$75.00	\$0.00
	F, JM	E1399	\$155.00	\$0.00
	M, RD	E0114	\$69.05	\$0.00
5/1/2003	M, YM, O, YO	L1858	\$572.33	\$0.00
	G, YG, F, 3, 01, JM	97500 (X3)	\$126.00	\$0.00
			<b>Total Due:</b>	<b>\$490.20</b>

**PART V: REVIEW OF SUMMARY, METHODOLOGY AND EXPLANATION**

This medical fee dispute is decided pursuant to Tex. Lab. Code Ann. §413.031 of the Texas Workers' Compensation Act, and pursuant to all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

**Background.**

1. This request for medical fee dispute resolution was received by the Division on October 6, 2003. Pursuant to Division rule at 28 TAC §133.307(g)(3), effective January 1, 2003, applicable to disputes filed on or after January 1, 2003, the Division notified the requestor on October 10, 2003 to send additional documentation relevant to the fee dispute as set forth in the rule.
2. Division rule at 28 TAC §134.1, effective May 16, 2002, 27 TexReg 4047, requires that services not identified in a fee guideline shall be reimbursed at fair and reasonable rates.
3. Texas Labor Code §413.011, requires that fee guidelines must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control.
4. Division rule at 28 TAC §134.201, titled *Medical Fee Guideline for Medical Treatments and Services Provided Under the Texas Workers' Compensation Act*, effective April 1, 1996, sets out the reimbursement for medical treatment.
5. Division rule at 28 TAC §133.307, effective January 1, 2003, 27 TexReg 12282, applicable to disputes filed on or after January 1, 2003, sets out the procedure for medical fee dispute resolution.
6. Division rule at 28 TAC §133.304, effective July 15, 2000, 25 TexReg 2115, requires the insurance carrier to develop and consistently apply a methodology to determine fair and reasonable reimbursement
7. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated 11/27/2002

- 40-The Charge for the services exceeds an amount which would appear reasonable when compared to the charges of other provider in the same geographic area.
- JM-The Medical Fee Guideline states in the importance of proper coding 'accurate coding of services rendered is essential f.'" [sic]

Explanation of benefits dated 2/10/2003

- 60-The provider has billed for the exact services on a previous bill.

Explanation of benefits dated 6/12/2003

- YM-The reimbursement for the service rendered has been determined to be fair and reasonable based on billing and payment research and is in accordance with Labor Code 413.011(D).
- YG-Reimbursement for this procedure is included in the basic allowance for another procedure.

Explanation of benefits dated 8/7/2003

- YM-The reimbursement for the service rendered has been determined to be fair and reasonable based on billing and payment research and is in accordance with Labor Code 413.011(D). The correct code for billing additional time after the first code 97500 is 97501.
- YO-Reimbursement was reduced or denied after reconsideration of treatment/service billed.
- 3, 01-The charge for the procedure exceeds the amount indicated in." [sic]

## Issues

1. Was the respondent's response filed in the form and manner prescribed under Division rules at 28 Texas Administrative Code sections §133.307?
2. What is the applicable rule for reimbursement?
3. Is the requestor entitled to additional reimbursement for HCPCS code E0781?
4. Is the requestor entitled to additional reimbursement for HCPCS code E0236?
5. Is the requestor entitled to reimbursement for HCPCS code E1399?
6. Is the requestor entitled to additional reimbursement for HCPCS code E0114?
7. Is the requestor entitled to additional reimbursement for HCPCS code L1858?
8. Is the requestor entitled to additional reimbursement for CPT code 97500?

## Findings

1. Division rule at 28 TAC §133.307(j)(2), states "The response shall address only those denial reasons presented to the requestor prior to the date the request for medical dispute resolution was filed with the division and the other party. Responses shall not address new or additional denial reasons or defenses after the filing of an request. Any new denial reasons or defenses raised shall not be considered in the review."

Division rule at 28 TAC §133.304(c), states "At the time an insurance carrier makes payment or denies payment on a medical bill, the insurance carrier shall send, in the form and manner prescribed by the Commission, the explanation of benefits to the appropriate parties. The explanation of benefits shall include the correct payment exception codes required by the Commission's instructions, and shall provide sufficient explanation to allow the sender to understand the reason(s) for the insurance carrier's action(s)."

The respondent states in the response to the request for medical fee dispute resolution that "The requester improperly billed and unbundled the supply. The requestor billed this carrier for a water circulating heat/cold pad with pump using HCPCS code E0236, along with an unlisted HCPCS code E1399. HCPCS code E1399 was billed twice and is reserved for miscellaneous supplies. The unbundling allows the requestor to submit separate charges for each item, though both are necessary and integral to the other, in an effort to circumvent the need for preauthorization. The water circulating unit was billed at \$494.00 while the water circulating pad was billed at \$155.00 and the 'therapy cooler wrap' was billed at \$75. In essence, the total charge for this water circulating heat/cold pad with pump is \$724.00. (Rule 134.600 requires preauthorization for DME items in excess of \$500.00) There is no evidence that the claimant already had a water circulating pump, pad, or wrap necessitating separate replacement, no evidence the requestor intended to replace a defective water circulating pad or pump. Instead, the requestor was making available the complete device for the use by the claimant." "If the requester insists these units are separate entities, not pieces of the whole device that delivers cryotherapy, it is this carrier's position that such a position further supports that the items in dispute are not necessary. These items, separate and independent of each other, are of no use and therefore unnecessary." The Division finds that the issues of unbundling, preauthorization and medical necessity were not raised by the respondent on the explanation of benefits in accordance with Division rule at 28 TAC §133.304(c). The Division further concludes that these issues were not raised by the respondent prior to the request for medical fee dispute resolution. Therefore, the response was not filed in the form and manner prescribed under Division rule at 28 TAC §133.307(j)(2).

2. Division rule at 28 TAC §134.201, titled *Medical Fee Guideline for Medical Treatments and Services Provided Under the Texas Workers' Compensation Act*, effective April 1, 1996, DURABLE MEDICAL EQUIPMENT (DME) GROUND RULE IV, titled Nonlisted Items and Documentation of Procedure states that "This document does not contain a specific MAR for DME items. The DME items should be billed at the usual and customary rate of the DME provider, and the insurance carrier shall reimburse the DME provider at an amount pre-negotiated between the provider and carrier, or, if there is no pre-negotiated amount, the fair and reasonable rate for the item described. Use the miscellaneous HCPCS code, E1399, when no other HCPCS code is present for the DME or supplies provided to the injured worker. When using E1399, a description of the unlisted equipment/supply is required."

Review of the documentation submitted by the parties to this dispute finds no documentation to support that an amount was pre-negotiated between the provider and carrier for the disputed HCPCS codes; therefore, the insurance carrier shall reimburse the provider the fair and reasonable rate for the item described per Division rule at 28 TAC §134.201 DME GROUND RULE IV.

3. HCPCS code E0781 is described as "Ambulatory infusion pump, single or multiple channels, with administrative equipment, worn by the patient." Division rule at 28 TAC §134.201, DME GROUND RULE IX. C, titled Billing, states that "The provider shall use the HCFA-1500 Form for billing. Invoices should be billed at the provider's usual and customary rate. Reimbursement shall be an amount pre-negotiated between the provider and carrier of there is no pre-negotiated amount, the fair and reasonable rate. A fair and reasonable reimbursement shall be the same as the fees set for the 'D' codes in the 1991 Medical Fee Guideline." A review of the 1991 MFG does not contain a comparable "D" code for HCPCS code E0781; therefore, reimbursement shall be at a fair and reasonable rate pursuant to Division rule

at 28 TAC §134.1.

Division rule at 28 TAC §134.1 requires that “Reimbursement for services not identified in an established fee guideline shall be reimbursed at fair and reasonable rates as described in the Texas Workers’ Compensation Act, §413.011 until such period that specific fee guidelines are established by the commission.”

Texas Labor Code §413.011(d), requires that fee guidelines must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual’s behalf. It further requires that the Division consider the increased security of payment afforded by the Act in establishing the fee guidelines.

Division rule at 28 TAC §133.307(g)(3)(D) requires the requestor to provide “documentation that discusses, demonstrates, and justifies that the payment amount being sought is a fair and reasonable rate of reimbursement.” Review of the submitted documentation finds that:

- The requestor’s rationale for increased reimbursement from the Table of Disputed Services does not discuss or explain how additional payment of \$10.00 for HCPCS code E0781 would result in a fair and reasonable reimbursement.
- The requestor did not submit documentation to support that the payment amount being sought is a fair and reasonable rate of reimbursement.
- In support of the requested reimbursement, the requestor submitted redacted EOBs for services that are similar to the services in dispute. However, the requestor did not discuss or explain how the sample EOBs support the requestor’s position that additional payment is due. The reimbursement methodology is not described on the EOBs. Nor did the requestor explain or discuss the sample carriers’ methodologies or how the payment amount was determined for each sample EOB. The requestor did not discuss or provide documentation to support whether such payment, as reflected in the sample EOBs, was typical for the services in dispute.
- The requestor does not discuss or explain how payment of the requested amount would ensure the quality of medical care, achieve effective medical cost control, provide for payment that is not in excess of a fee charged for similar treatment of an injured individual of an equivalent standard of living, consider the increased security of

payment, or otherwise satisfy the requirements of Texas Labor Code §413.011(d) or Division rule at 28 TAC §134.1.

The request for additional reimbursement is not supported. Thorough review of the documentation submitted by the requestor finds that the requestor has not demonstrated or justified that payment of the amount sought would be a fair and reasonable rate of reimbursement for HCPCS code E0781. Additional payment cannot be recommended.

4. HCPCS code E0236 is described as “Pump for water circulating pad.” Division rule at 28 TAC §134.201, DME GROUND RULE IX, C, titled Billing states fair and reasonable rate will be the fees set in the 1991 MFG. This HCPCS code is comparable to MFG 1991 “D” code “D0368-Pump for water-circulating pad.” Per the 1991 MFG, HCPCS code D0368 has a purchase price of \$490.20. The insurance carrier paid \$0.00. The requestor is entitled to the difference between \$490.20 and amount paid of \$0.00 = \$490.20.
5. HCPCS code E1399 is described as “Durable Medical Equipment, miscellaneous”. The requestor noted on the medical bill that HCPCS code E1399 was used for billing of a cold therapy cooler wrap and a water circulating pad. Therefore, the requestor submitted a descriptor in accordance with Division rule at 28 TAC §134.201 DME GROUND RULE (IV).

Division rule at 28 TAC §134.201, DME GROUND RULE IX, C, titled Billing states fair and reasonable rate will be the fees set in the 1991 MFG. A review of the 1991 MFG does not find a comparable code for a cold therapy cooler wrap and a water circulating pad; therefore, reimbursement shall be at a fair and reasonable rate pursuant to Division rule at 28 TAC §134.1 and Texas Labor Code §413.011(d).

Division rule at 28 TAC §133.307(g)(3)(D), requires the requestor to provide “documentation that discusses, demonstrates, and justifies that the payment amount being sought is a fair and reasonable rate of reimbursement.” Review of the submitted documentation finds that:

- The requestor’s rationale for increased reimbursement from the Table of Disputed Services does not discuss or explain how payment of \$75.00 and \$155.00 for HCPCS code E1399 would result in a fair and reasonable reimbursement.
- The requestor did not submit documentation to support that the payment amount being sought is a fair and reasonable rate of reimbursement.
- In support of the requested reimbursement, the requestor submitted redacted EOBs for services that are similar to the services in dispute. However, the requestor did not discuss or explain how the sample EOBs support the requestor’s position that additional payment is due. The reimbursement methodology is not described on the EOBs. Nor did the requestor explain or discuss the sample carriers’ methodologies or how the payment amount was determined for each sample EOB. The requestor did not discuss or provide documentation to support whether such

payment, as reflected in the sample EOBs, was typical for the services in dispute.

- HCPCS code E1399 is a miscellaneous durable medical equipment code. No descriptions of the items reimbursed were found on the sample EOBs. No documentation was found to support that the miscellaneous items reimbursed on the sample EOBs were the same or similar to the items in dispute.
- The requestor does not discuss or explain how payment of the requested amount would ensure the quality of medical care, achieve effective medical cost control, provide for payment that is not in excess of a fee charged for similar treatment of an injured individual of an equivalent standard of living, consider the increased security of payment, or otherwise satisfy the requirements of Texas Labor Code §413.011(d) or Division rule at 28 TAC §134.1.

The request for reimbursement is not supported. Thorough review of the documentation submitted by the requestor finds that the requestor has not demonstrated or justified that payment of the amount sought would be a fair and reasonable rate of reimbursement for the items billed under HCPCS code E1399. Payment cannot be recommended.

6. HCPCS code E0114 is described as "Crutches underarm, wood, adjustable or fixed, pair, with pads, tips and handgrips." Division rule at 28 TAC §134.201, DME GROUND RULE IX, C, titled Billing states fair and reasonable rate will be the fees set in the 1991 MFG. This HCPCS code is comparable to MFG 1991 "D" code "D0615-Crutches, wood (pr)." Per the 1991 MFG, "D" code D0615 has a purchase price of \$35.10. The insurance carrier paid \$40.95. As a result, the amount ordered is \$0.00.
7. HCPCS code L1858 is described as "KO, molded plastic, polycentric knee joints, pneumatic knee pads (CTI)." A review of the 1991 MFG does not find a comparable code HCPCS code L1858; therefore, reimbursement shall be at a fair and reasonable rate pursuant to Division rule at 28 TAC §134.1 and Texas Labor Code §413.011(d).

Division rule at 28 TAC §133.307(g)(3)(D), requires the requestor to provide "documentation that discusses, demonstrates, and justifies that the payment amount being sought is a fair and reasonable rate of reimbursement." Review of the submitted documentation finds that:

- The requestor's rationale for increased reimbursement from the Table of Disputed Services does not discuss or explain how additional payment of \$572.33 for HCPCS code L1858 would result in a fair and reasonable reimbursement.
- The requestor did not submit documentation to support that the payment amount being sought is a fair and reasonable rate of reimbursement.
- In support of the requested reimbursement, the requestor submitted redacted EOBs for services that are similar to the services in dispute. However, the requestor did not discuss or explain how the sample EOBs support the requestor's position that additional payment is due. The reimbursement methodology is not described on the EOBs. Nor did the requestor explain or discuss the sample carriers' methodologies or how the payment amount was determined for each sample EOB. The requestor did not discuss or provide documentation to support whether such payment, as reflected in the sample EOBs, was typical for the services in dispute.
- The requestor does not discuss or explain how payment of the requested amount would ensure the quality of medical care, achieve effective medical cost control, provide for payment that is not in excess of a fee charged for similar treatment of an injured individual of an equivalent standard of living, consider the increased security of payment, or otherwise satisfy the requirements of Texas Labor Code §413.011(d) or Division rule at 28 TAC §134.1.

The request for additional reimbursement is not supported. Thorough review of the documentation submitted by the requestor finds that the requestor has not demonstrated or justified that payment of the amount sought would be a fair and reasonable rate of reimbursement for the item billed under HCPCS code L1858. Payment cannot be recommended.

8. CPT code 97500 is described as "Orthotics training (dynamic bracing, splinting) upper and/or lower extremities; initial 30 minutes, each visit." Per Division rule at 28 TAC §134.201, the MAR for CPT code 97500 is \$24.00. On the disputed date, the requestor billed for three (3) units of CPT code 97500. MEDICINE GROUND RULE I, A, 10, d, states "The codes for orthotics (7500-97501)...training shall be used for instruction and training." CPT code 97501 is described as "Orthotics training (dynamic bracing, splinting) upper and/or lower extremities; each additional 15 minutes." Per Division rule at 28 TAC §134.201, the initial 30 minutes of orthotics training will be billed with CPT code 97500 and any additional training will be billed with CPT code 97501. Based upon the submitted documentation the requestor did not support the billing of CPT code 97500 (X3). Furthermore, the requestor did not correctly bill for the additional units per Division rule at 28 TAC §134.201. As a result the amount ordered is \$0.00.

## **Conclusion**

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that the submitted documentation does not support the reimbursement amount sought by the requestor for HCPCS codes E0781, E1399, E0114, L1858 and CPT code 97500. For the reasons stated above, the division finds that the requestor has established that additional reimbursement of \$490.20 is due for HCPCS code E0236. As a result, the amount ordered is \$490.20.

## PART VI: DIVISION ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031 and §413.019 (if applicable), the Division has determined that the requestor is entitled to \$490.20 additional reimbursement for the services involved in this dispute. The Division hereby **ORDERS** the respondent to remit to the requestor the amount of \$490.20 plus applicable accrued interest per Division rule at 28 Tex. Admin. Code §134.803, due within 30 days of receipt of this Order.

### ORDER:

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

\_\_\_\_\_  
**June 4, 2010**

\_\_\_\_\_  
Date

## PART VIII: YOUR RIGHT TO REQUEST AN APPEAL

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with other required information specified in Division rule at 28 TAC §148.3(c).

Under Texas Labor Code §413.0311, your appeal will be handled by a Division hearing under Title 28 Texas Administrative Code Chapter 142 Rules if the total amount sought does not exceed \$2,000. If the total amount sought exceeds \$2,000, a hearing will be conducted by the State Office of Administrative Hearings under Texas Labor Code §413.031.

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**